

U.S. Patent Application Serial No. 10/691,960
Response filed May 26, 2006
Reply to OA dated March 8, 2006

REMARKS

Claim 6 has been amended in order to more particularly point out, and distinctly claim the subject matter to which the applicant regards as his invention. The applicant respectfully submits that no new matter has been added. It is believed that this Amendment is fully responsive to the Office Action dated March 8, 2006.

Claims 2 - 6 are currently pending in this patent application, claim 6 being an independent claim.

On the merits of this case, the Examiner maintains his reliance on the Bohrer reference (U.S. Patent Publication No. 2002-0121399) in maintaining the following rejections:

(1) claims 2, 3, 5 ("as dependent upon 6, 2, and 3"), and independent claim 6 stand rejected under 35 USC §102(b) as being anticipated by Bohrer; and

(2) claims 4 and 5 ("as dependent upon claim 4") stand rejected under 35 USC §103(a) based on Bohrer.

The applicant respectfully requests reconsideration of these rejections.

The applicant's claimed invention, as now recited in independent claim 6, is directed to a hydraulically-driven vehicle, which includes a hydraulic motor (2); and a switching means for changing a maximum driving force of the hydraulic motor (2). As now further recited in claim 6, the hydraulic motor (2) is driven by oil pressure discharged from a hydraulic pump (1) to propel the hydraulically-driven vehicle; and the switching means is switched by an operator of the hydraulically-driven vehicle during operation of the hydraulically-driven vehicle in order to obtain efficient performance of the hydraulically-driven vehicle in the working conditions being encountered by the hydraulically-driven vehicle. As now further recited in claim 6, the claimed hydraulic motor is driven in a continuous stepless gear shifting manner.

Significant structural arrangements of the applicant's claimed invention, as now set forth in claim 6, include the claimed switching means being switched by an operator of the hydraulically-driven vehicle during operation of the hydraulically-driven vehicle in order to obtain efficient performance of the hydraulically-driven vehicle in the working conditions being encountered by the hydraulically-driven vehicle, wherein the claimed hydraulic motor is driven in a continuous stepless gear shifting manner.

As to the cited prior art, the Bohrer speed adjustment device does not perform any function when gears of the gear box are in any of the lower gears. In the applicant's claimed invention, the

claimed switching means changes the maximum driving force of the hydraulic motor in order to obtain efficient performance of the hydraulically-driven vehicle in any of the working conditions thereof.^{1/}

The Examiner agrees with the applicant's argument, submitted for consideration in the last Response, in distinguishing the applicant's claimed hydraulically-driven vehicle, as set forth in independent claim 6, over the teachings of Bohrer, but argues (in lines 3 - 6, page 4 of the outstanding Office Action) that "there is nothing at all recited in the claims which requires this condition." The applicant respectfully submits that the applicant's claim language concerning efficient performance of the applicant's claimed hydraulically-driven vehicle "in any of the working conditions thereof" distinguishes over the teachings of Bohrer's speed adjustment device not being able to perform any function when gears of the gear box are in any of the lower gears.

However, in order to further address the Examiner's specific comments, as set forth in the outstanding Office Action, the applicant has further amended independent claim 6 in order to highlight the fact that the hydraulic motor is driven in a continuous stepless gear shifting manner.

^{1/} See, lines 6 - 10, page 7 of the applicant's January 19, 2006 Response.

In support of the additional amendments to claim 6, the applicant respectfully refers the Examiner to, for example, lines 17 - 19, page 13 of the applicant's specification, which explains that:

when using the continuous changeover switch 25, it is possible to switch the position of Min and the position of Max in Fig. 4 in a stepless manner (continuously).

In other words, by specifying in claim 6 that the hydraulic motor is driven in a continuous stepless gear shifting manner, in which efficient performance thereof is obtained, the applicant addresses the Examiner's concern that there is nothing in the language of the claims that supports the applicant's argument (which the Examiner agrees to) that the Bohrer reference "does not perform any function when the gears of the gear box are in any of the lower gears."

In view of the above, not all of the claimed elements or features, now recited in amended claim 6, are found in exactly the same situation and united in the same way to perform the identical function Bohrer's device; thus, there can be no anticipation of the applicant's claimed hydraulically-driven vehicle based on the teachings of Bohrer. Also, claims 2, 3 and 5 depend on claim 6, and further limit the scope of claim 6. Thus, at least for the reasons set forth above with respect to claim 6, claims 2, 3 and 5 should now be similarly allowable.

Also, claims 4 and 5 depend on claim 6, and further limit the scope of claim 6. As such, the applicants' above arguments in support of claim 6 are similarly applicable to claims 4 and 5. Based

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on such arguments, the applicant's claimed hydraulically-driven vehicle, as now recited in claim 6 from which claims 4 and 5 depend, would not have been obvious to a person of ordinary skill in the art.

In view of the above, the withdrawal of the outstanding rejection under 35 USC §102(b) as being anticipated by Bohrer, and the outstanding rejection under 35 USC §103(a) based on Bohrer is in order, and is therefore respectfully solicited.

In view of the aforementioned amendments and accompanying remarks, claims, as amended, are in condition for allowance, which action, at an early date, is requested.

If, for any reason, it is felt that this application is not now in condition for allowance, the Examiner is requested to contact the applicant's undersigned attorney at the telephone number indicated below to arrange for an interview to expedite the disposition of this case.

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In the event that this paper is not timely filed, the applicant respectfully petitions for an appropriate extension of time. Please charge any fees for such an extension of time and any other fees which may be due with respect to this paper to Deposit Account No. 01-2340.

Respectfully submitted,

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